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6                   UNITED STATES DISTRICT COURT  
7                   WESTERN DISTRICT OF WASHINGTON  
8                   AT TACOMA

9  
10 JULIE SCHMIDT,

11                   Plaintiff,

12                   v.

13 CHILDREN'S PROTECTIVE SERVICES,

14                   Defendant.

15                   Case No. C09-5150FDB

16                   ORDER DENYING LEAVE TO  
17                   PROCEED *IN FORMA PAUPERIS* and  
18                   DENYING COURT-APPOINTED  
19                   COUNSEL

20                   Plaintiff has filed a complaint asserting violation of her civil and Constitutional rights in that  
21 she asserts that her children were taken from her based on false reports that she abused and neglected  
22 her children, when such was never charged or proved. In her addendum to her complaint, among  
23 other things, she states that she has been told that she has a brain impairment so severe that she  
24 cannot take care of herself or anyone else, but she has not been able to see the reports, and she also  
25 names others who have told her that she could "parent" under certain conditions.

26                   Plaintiff applies for Court-appointed counsel, but she identifies no efforts to retain an  
attorney, and she states that no state or federal agency has officially determined that there is  
reasonable cause to believe that the allegations in her complaint are true. Generally, there is no  
constitutional right to counsel in a civil case. *United States v. 30.64 Acres of Land*, 795 F.2d 796,  
801 (9<sup>th</sup> Cir. 1986). Pursuant to 28 U.S.C. § 1915(d), however, a court has discretion to request  
volunteer counsel for indigent plaintiffs in exceptional circumstances. *Id.* ; *Wood v. Housewright* 900

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28 ORDER - 1

1 F.2d 1332, 1335 (9<sup>th</sup> Cir. 1990). A court, however, may not make a mandatory appointment.  
2 *Mallard v. U.S. Dist. Court of Iowa*, 490 U.S. 296, 301-08 (1989). In order to determine whether  
3 exceptional circumstances exist, the court evaluates the plaintiff's likelihood of success on the merits  
4 and the ability of the plaintiff to articulate his or her claim pro se in light of the complexity of the  
5 legal issues involved. *Wood* at 1335-36; *Richards v. Harper*, 864 F.2d 85, 87 (9<sup>th</sup> Cir. 1988).

6 Having reviewed Plaintiff Schmidt's complaint, and all the material submitted therewith, the  
7 Court cannot conclude that demonstrated either a likelihood of success on the merits or an inability  
8 to articulate her claim. Accordingly, Plaintiff's application for Court-appointed counsel will be  
9 denied.

10 Plaintiff also applies to proceed *in forma pauperis* and states only that she receives disability  
11 compensation payments, and has since 1987, but she does not state the amount of payments that she  
12 has received in the last twelve months as requested. Pursuant to 28 U.S.C. § 1915(a), a court may  
13 authorize a plaintiff to prosecute an action in federal court without prepayment of fees or security if  
14 the plaintiff submits an affidavit showing that he or she is unable to pay such fees or give security  
15 therefor. Plaintiff Schmidt, however, has failed to submit a complete affidavit, such that the Court  
16 may ascertain an inability to pay expenses required to proceed with this action. Plaintiff's application  
17 for leave to proceed *in forma pauperis* will be denied.

18 NOW, THEREFORE, IT IS ORDERED: Plaintiff's Application for Leave To Proceed *In*  
19 *Forma Pauperis* [Dkt. # 1] and Plaintiff's Application for Court-Appointed Counsel [Dkt. # 2] are  
20 DENIED.

21 DATED this 30<sup>th</sup> day of March, 2009.

  
22 FRANKLIN D. BURGESS  
23 UNITED STATES DISTRICT JUDGE  
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